

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

MICHAEL BEAR,  
BOP # 11543-084

Plaintiff,

v.

DR. MARTIN, UNKNOWN  
MEDICAL STAFF OF THE BUREAU  
OF PRISONS, WARDEN DREW, DR.  
JAMES WINSTON, HSA T.  
HOLLINGER, DR. NOBERT  
ROSARIO, and DR. LENNOR  
BONNET/ENGEBRETSON,

Defendants.

PRISONER CIVIL RIGHTS &  
FEDERAL TORT CLAIMS ACT 28  
U.S.C. §§ 1331, 1346(B) & 2671 et  
seq.

CIVIL ACTION FILE NO.  
1:16-CV-102-TWT-JKL

**REPORT AND RECOMMENDATION**

Before the Court is Plaintiff's motion for entry of default judgment. [Doc. 51.] The named Defendants have filed a response in opposition to the motion. [Doc. 53.]

Federal Rule of Civil Procedure 55(a) provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Plaintiff argues that all of the defendants were served by the U.S.

Marshal's service on December 22, 2017, but that none have filed an appearance in the case.

Plaintiff is mistaken. According to the docket, Dr. Martin is the only named defendant that has been served in this case. [Doc. 48.] Service was executed on December 22, 2017. Defendants Winston and Hollinger represent that they also received service packaged on December 22, 2017. [Doc. 53 at 2.] Sixty days later, on February 20, 2017, Defendants Martin, Winston, and Hollinger filed a motion for more definite statement pursuant to Federal Rule of Civil Procedure 12(e). The filing of a motion for more definite statement postpones the date on which a defendant must file an answer. Fed. R. Civ. P. 12(a)(4). Until service is executed on the other named defendants, they have no obligation to file answers or otherwise defend this action. Accordingly, Plaintiff's motion should be **DENIED**.

**IT IS SO RECOMMENDED** this 22nd day of March, 2018.



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JOHN K. LARKINS III  
UNITED STATES MAGISTRATE JUDGE